



State of Washington  
Department of Revenue

# Excise Tax Advisory

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Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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## RETAIL SALES TAX: PUBLIC ROAD CONSTRUCTION

Issued June 12, 1970

Does the purchaser owe the retail sales tax upon charges made by contractors for road and bridge construction, repair, or maintenance upon either (1) private land owned by the purchaser; (2) private land owned by another party; or (3) alternate sections of private land owned by the purchaser and public land in which costs are shared and each party has an easement in the other's land?

(1) Where the roads and bridges are constructed entirely on private land, the construction is defined as a retail sale under RCW 82.04.050 and the retail sales tax is applicable to the full contract price when the work is performed by an independent contractor. When the work is performed on the purchaser's property by employees of the purchaser, the retail sales tax or use tax is applicable to the materials used but is not imposed on the value of services performed by the employees.

(2) Where the taxpayer's employees build a road on private land owned by another party, the consideration paid by such other party to the taxpayer is a retail sale and the retail sales tax must be paid.

(3) Where the taxpayer owns alternate sections of land and the roads are built on a cost sharing arrangement with permanent rights-of-way being exchanged between the taxpayer and the federal or state governments, the department is of the opinion that these roads should be considered publicly owned for purposes of the retail sales tax. Rationale: the public body owns a fee in certain sections of the road and has a permanent easement in other parts which are on private lands. The word "owned" is used in the law to designate a great variety of interests in property, so the department applies the meaning which it feels is reasonable and equitable in the circumstances. In conclusion, the department feels that when a road passes over public and private lands, the public body owning the fee in certain sections of the road and having a permanent easement in other parts which are on private lands, the entire road should be considered publicly owned for purposes of the retail sales tax. In general this

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***ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.***

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means that the contractor is liable for sales tax or use tax on the material used in constructing the entire road and is subject to the business tax under the Public Roads Construction classification at the .0044 rate on the full contract price. The sales tax is not applicable to the contractor's charges to the person for whom the road is constructed.